THE HON'BLE SRI JUSTIVE V.V.S.RAO

WRIT PETITION No.14209 of 2006

__.08.2006

Between:

M.Hema Prasad, W/o.Hanumath Prasad
And others

… Petitioners

AND

The Secretary, Government of Andhra Pradesh,
Revenue (Urban Land Ceiling) Department, Secretariat,
Hyderabad
And another

… Respondents

THE HON'BLE SRI JUSTIVE V.V.S.RAO

WRIT PETITION No.14209 of 2006

ORDER

This writ petition is filed by four petitioners seeking a writ of Mandamus directing respondents 1 and 2 to consider the applications made by the petitioners for regularization/allotment of land in accordance with Section 23 of the Urban Land (Ceiling & Regulation) Act, 1976 (hereafter called, ULC Act), as per the guidelines issued by the Government in their orders in G.O.Ms.No.455 dated 29.7.2002 without insisting upon the rectification deed in respect of document No.51/1981, dated 06.6.1981.

The first petitioner purchased land admeasuring Acs.0.08½ guntas (121 Sq. yards = one gunta) in survey No.67 of Madhapur Village of Serilingampally Mandal in Ranga Reddy District under a registered sale deed dated 30.1.1982 bearing document No.1079/1982. Similar extent of land was purchased by the second petitioner under document No.1078.1982 dated 30.1.1982 and fourth petitioner under document No.1121/1982 dated 01.2.1982. It is also

the case of the petitioners that the father of petitioners 3 and 4, late Veera Raghavaiah, purchased an extent of Acs.0.08½ guntas under a registered document No.1119/ 1982 dated 01.2.1982. The petitioners 1 and 2 purchased the property from one Smt.L.Rani, W/o.Rambabu whereas the father of petitioners 3 and 4 purchased the property under two separate sale deeds from one L.Venkateswara Rao.

It is the case of the petitioners that the land they purchased was declared surplus vacant land under the provisions of ULC Act. Therefore, the petitioners made applications seeking allotment/regularization in accordance with G.O.Ms.No.455, dated 29.7.2002. These applications were made to the second respondent, were registered as F1/455/2176, 2195, 2181 and 2197 of 2005. The petitioners allege that their applications were not processed. The second respondent issued memo No.F1/19/95 dated 05.6.2006 directing the petitioners to produce a copy of the Rectification Deed for Registered Document No.51/81 dated 06.6.1981 alleging that the said Registered Document pertains to the land in survey No.67 of Kothaguda Village whereas the petitioners sought for allotment of the land falling in the limits of Madhapur Village of Serilingampally Mandal, aggrieved by this, the present writ petition is filed.

Learned Assistant Government Pleader opposed the writ petition at the stage of preliminary hearing on 13.7.2006 and, therefore, the matter was adjourned to enable the respondents to file counter affidavit. A counter affidavit is filed by the Special Deputy Collector in the Office of the second respondent. The reasons in justification of the memo dated 05.6.2006 mentioned in the counter affidavit are as follows. Smt.Jahangir Bee and others were represented by their Registered General Power of Attorney (GPA) Holder as per Registered GPA Document No.101/1992, dated 13.1.1992. The petitioners, however, allege that Smt.Jahangir Bee and others were represented by a Registered GPA Holder, Chintalapati Satyanarayana Murthy (hereafter called, Murthy), vide Registered Document No.51/81 dated 06.6.1981. As there cannot be two different GPAs for the same property, the petitioners were requested to produce a copy of the Registered GPA Document No.51/81, vide memo dated 31.1.2006. The petitioners did not produce copy of the GPA, but informed the Office of the second respondent that when they approached for a certified copy, the Joint Sub Collector-I, Ranga Reddy District, did not give the copy of the GPA on the ground that the relevant Registration

Book is torn due to wear and tear. The matter was then referred to Enquiry Officer, who conducted enquiry and submitted a report on 03.5.2006 to the effect that the GPA Document No.51/81 was executed in respect of the property in survey No.67 situated at Kothaguda village whereas the applicants are claiming the land in Madhapur Village. Therefore, a memo dated 05.6.2006 was issued to the petitioners. It is also alleged that the petitioners purchased property in survey No.67 of Madhapur Village from the landholders represented by their GPA Holder, Murthy, who was given GPA for the land situated at Kothaguda Village and not Madhapur Village and, therefore, the sale deeds executed by the vendors of the petitioners have no legal basis insofar as the land in Madhapur is concerned. When the petitioners seek allotment/regularization of the land as per G.O.Ms.No.455 it is the duty of the petitioners to establish link to the original landholder from whom they purchased the property. It is further alleged in the counter affidavit that as per the pahani for the year 1975-1976, the total extent of the land in survey No.67/A and 67/AA of Kothaguda Village is Acs.0.09 guntas and Acs.0.04 guntas respectively in respect of which one Mangali Pentaiah is registered as pattadar and, therefore, the GPA of the vendors of the writ petitioners does not relate to Konthaguda land.

Learned Counsel for the petitioners submits that the vendor of the petitioners obtained the sale deed from Smt.Jahangir Bee and others represented by their GPA, that the sale deeds obtained by the vendors of the petitioners as well as petitioners, the property is described as survey No.67 situated at Madhapur Village and in the absence of any dispute raised by paramount owner or any person connected with the land, it is improper for the second respondent to question the validity of the sale deed in favour of the vendors of the petitioners executed by Smt.Jahangir Bee and others represented by their GPA. Nextly, he would submit that under G.O.Ms.No.455, it is the Government of Andhra Pradesh which is competent to pass orders under Section 23 of ULC Act and the second respondent being an authority to process the applications made under G.O.Ms.No.455, cannot raise the objections at this stage.

Learned Assistant Government Pleader (ULC) vehemently contends that as per the GPA Document No.51/81 executed by Smt.Jahangir Bee and others in favour of Murthy, the latter was authorized/empowered to sell the property admeasuring Acs.15.38 guntas in survey No.67 of Kothaguda Village whereas the GPA

executed sale deeds on 14.11.1981 in favour of Smt.L.Rani and Sri L.Venkateswara Rao, the vendors of the petitioners in respect of the property in survey No.67 situated at Madhapur Village. According to the learned Assistant Government Pleader, this itself would cast a doubt on the validity of the sale in faavour of the vendors of the petitioners and thereafter the sale in favour of the petitioners. Learned Assistant Government Pleader vehemently contends that the second respondent never refused to process the applications of the petitioners under G.O.Ms.No.455, but only asked for clarification advising them to produce Rectification Deed to enable the second respondent to process the applications.

The writ petition is filed seeking judicial review on the ground of irrationality on the part of the second respondent in directing the petitioners to produce Rectification Deed for Registered GPA Document No.51/81 dated 06.6.1981. Before considering this aspect, the admitted facts may be noticed. Smt.Jahangir Bee and seven others executed a Special Power of Attorney (SPA) in favour of Murthy authorizing him to dispose of the land admeasuring Acs.15.38 guntas in survey No.67 situated at Kothaguda Village in favour of Athili Venkata Rama Prasad or his nominee or nominees. The said SPA was also authorized to receive the balance of sale consideration under agreement dated 24.3.1981 and execute sale deed. The GPA was executed on 25.3.1981 and registered as document No.51/81. There is also no denial that subsequently Smt.Jahangeer Bee and seventeen (17) other persons (including those who executed SPA) represented by Murthy demised an extent of Acs.2.00 in survey No.67 dated 14.11.1981. On the same day, under another registered sale deed, Murthy as SPA of eighteen (18) persons alienated another extent of Acs.2.00 of land in survey No.67 of Madhapur Village in favour of Sri L.Venkateswara Rao. Thereafter, Smt.L.Rani sold an extent of Acs.0.08½ guntas each to the petitioners 1 and 2 under two registered sale deeds of even date i.e., 30.1.1982. This property is also shown to be in survey No.67 of Madhapur Village. The father of petitioners 3 and 4 purchased an extent of Acs.0.08½ guntas and the petitioner No.4 purchased an extent of Acs.0.08½ guntas from Sri L.Venkateswara Rao. These registered sale deeds were executed on 01.2.1982.

In the background of above admitted facts, when any person claims that the property, which was purchased by the vendors of the

petitioners (Smt.L.Rani and Sri L. Venkateswara Rao), is situated in survey No.67 of Madhapur Village, having regard to the SPA in favour of Murthy authorizing/empowering him to sell land in survey No.67 of Kothaguda Village, how he executed sale deeds in respect of Madhapur land? When only eight (8) persons executed SPA in his favour how Murthy executed sale deeds in favour of vendors of the petitioners representing eighteen (18) persons. Whether the property covered by SPA (Document No.51/81) and the property covered by sale deeds dated 14.11.1981 executed by Murthy (as SPA) in favour of the vendors of the petitioners is the same or not. How the riddle can be solved. In his wisdom, the second respondent thought it fit to advise the petitioners to obtain Rectification Deed in relation to SPA (Document No.51/81). Therefore, this Court must hold that the second respondent did not act irrationally in issuing memo dated 05.6.2006 nor can it be accepted that the applications are not processed.

There is yet another angle to the case. The petitioners approached the Joint Sub Registrar-I, Ranga Reddy District, for a certified copy of the SPA (Document No.51/81) and they were informed that the same cannot be given, as the registration books are damaged beyond repair. There is also no dispute that those persons who are the executants of the SPA or Murthy are no more and, therefore, getting a Rectification Deed showing the land as falling in Madhapur Village is impossible. In this background, the situation warrants deeper probe into the matter. The Special Officer and Competent Authority, the second respondent herein, should therefore consider the sale deeds executed by Murthy in favour of Smt.L.Rani and Sri L.Venkateswara Rao as well as the sale deeds executed by these persons in favour of the petitioners, if necessary by visiting the land and conducting inspection with reference to the boundaries of the land mentioned in SPA executed by Smt.Jahangir Bee and others. If there is any doubt, it is always open to the second respondent to send a detailed report to the Government, who are alone competent to pass orders in accordance with G.O.Ms.No.455. If ultimately the Government rejects the claim of the petitioner for allotment of the land under G.O.Ms.No.455, the remedy would be to approach the Civil Court and claim the right subject however to the provisions under ULC Act. In the considered opinion of this Court, therefore, the matter should be remitted to the Special Officer, to process the applications of the petitioners in the light of the observations made herein above and if

necessary advising the petitioners to produce additional material or additional evidence showing that the land is the same land, which was owned by Smt.Jahangir Bee and others. Except making these observations, the controversy raised in this writ petition cannot be adjudicated in this Court, as it is purely question of fact.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

August , 2006.

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